

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MATTHEW STEIN and JEROME LHOTE,

Plaintiffs,

v.

SKATTEFORVALTNINGEN,

Defendant,

and

LUKE MCGEE,

Nominal Defendant.

23 Civ. 2508 (NRB)

SKATTEFORVALTNINGEN,

Counterclaim Plaintiff,

v.

MATTHEW STEIN, JEROME LHOTE, and
LUKE MCGEE,

Counterclaim Defendants.

STIPULATION AND [PROPOSED] ORDER

Plaintiffs-Counterclaim Defendants Matthew Stein (“Stein”) and Jerome Lhote (“Lhote”), Defendant-Counterclaim Plaintiff Skatteforvaltningen (“SKAT”), and Counterclaim Defendant - Nominal Defendant Luke McGee (“McGee”), by and through their undersigned attorneys, hereby stipulate and agree as follows:

WHEREAS, on May 28, 2019, SKAT entered into a settlement agreement (the “Settlement Agreement”) and a related letter agreement (the “Letter Agreement”) with Stein, Lhote, and McGee, among others;

WHEREAS, on August 8, 2019, and pursuant to section 4(c) of the Settlement Agreement, Stein, Lhote, and McGee provided SKAT with an affidavit of confession of judgment;

WHEREAS, pursuant to section 4(c) of the Settlement Agreement, Stein, Lhote and McGee provided SKAT with a further affidavit of confession of judgment (the “2021 Affidavit of Confession of Judgment”) that was executed by Lhote on June 9, 2021, and by Stein and McGee on June 10, 2021;

WHEREAS, New York Civil Practice Law and Rules (“CPLR”) 3218(b) provides, among other things, that “[a]t any time within three years after [an] affidavit [of confession of judgment] is executed, it may be filed, but only with the clerk of the county where the defendant’s affidavit stated that the defendant resided when it was executed or where the defendant resided at the time of filing” and “[t]he clerk shall then enter a judgment in the supreme court for the sum confessed”;

WHEREAS, on March 24, 2023, plaintiffs Stein and Lhote filed their Complaint [ECF No. 11] in this action seeking, among other things, a declaratory judgment that the 2021 Affidavit of Confession of Judgment is unenforceable and should be declared invalid, null, and void, and on June 15, 2023, defendant SKAT filed its First Amended Answer, Affirmative Defenses and Counterclaims [ECF No. 48], in which it asserted counterclaims against Stein, Lhote, and McGee seeking, among other things, entry of the 2021 Affidavit of Confession of Judgment;

WHEREAS, on March 4, 2024, Stein and Lhote filed their First Amended Complaint and Answer to SKAT’s First Amended Counterclaims [ECF No. 92] and McGee answered SKAT’s Counterclaims [ECF No. 93];

WHEREAS, SKAT and McGee answered Stein and Lhote’s First Amended Complaint [ECF No. 122 and 123, respectively];

WHEREAS, the parties previously stipulated, and the Court previously entered an Order

on December 14, 2023, with respect to application of the time fixed by CPLR 3218(b) [ECF No. 71]; and

WHEREAS, the parties' various disputes regarding the 2021 Affidavit of Confession of Judgment remain pending before the Court,

NOW, THEREFORE, the parties hereby stipulate and agree as follows:

1. Pursuant to Federal Rule of Civil Procedure 6(b) and CPLR 2004, the time fixed by CPLR 3218(b) for SKAT to file the 2021 Affidavit of Confession of Judgment is hereby extended until, and including, June 10, 2025.
2. Stein, Lhote, and McGee shall not argue before this Court, or any other court, that the 2021 Affidavit of Confession of Judgment cannot be filed or that judgment cannot be entered based upon it because SKAT filed it after the three-year period set forth in CPLR 3218(b), so long as SKAT files it, including by moving the Court for entry of judgment based upon it, on or before June 10, 2025.
3. Nothing herein shall affect any claim or defense of plaintiffs Stein and Lhote or counterclaim defendant McGee, whether alleged as of the date hereof or hereafter, related to or arising from the 2021 Affidavit of Confession of Judgment, the Settlement Agreement, or the Letter Agreement, including that the 2021 Affidavit of Confession of Judgment is otherwise unenforceable, invalid, null, or void, or that it should be vacated or set aside.

/s/
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SO ORDERED.

Dated: New York, New York
July 11, 2024



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE